

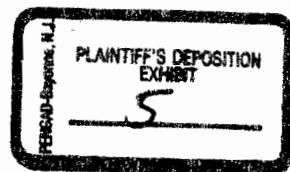
IN THE CIRCUIT COURT OF RANDOLPH COUNTY, ALABAMA

EMORY STEVE BROWN)
)
 PLAINTIFF)
)
 VS.) CASE NO. _____
)
 CLAIMS MANAGEMENT, INC.)
)
 DEFENDANT)

PLAINTIFF'S FIRST REQUEST FOR PRODUCTION

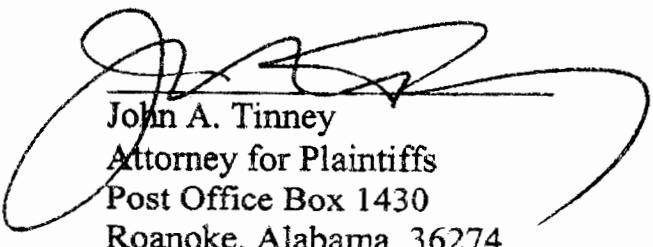
Comes now plaintiff and requests defendant to produce the following documents within the time allowed by the Alabama Rules of Civil Procedure:

1. All records in your file with respect to your handling plaintiff's workmen's compensation claim that would have been generated by you on or after September 28, 2004.
2. A copy of all computer stored e-mails, interoffice communications, or any other computer stored information that you may have relating to the plaintiff's claim the subject of this suit.
3. A copy of all records and opinions received from any physician other than Dr. Shirah or Dr. Holworth concerning the plaintiff's care or treatment.



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4. A copy of all correspondence between you and any and all persons, firms, or corporations wherein you sought an opinion as to the reasonableness or necessity for the plaintiff's shoulder surgery at anytime. Please furnish a copy of any such reports received from any person, firm, or corporation concerning said surgery.



John A. Tinney
Attorney for Plaintiffs
Post Office Box 1430
Roanoke, Alabama 36274
(334) 863 8945

SERVED WITH SUMMONS AND COMPLAINT - RESPONSES DUE 45 DAYS FROM DATE OF SERVICE

218

Mail Receive Date: 2004-10-21

WMP-76 (2/00)

WORKER'S COMPENSATION REQUEST FOR MEDICAL CARE

INSTRUCTIONS

WAL-MART - Complete top portion and give to associate to present to the physician. Refer to Resource Manual for mailing address.

ASSOCIATE - Present to the physician. Return the top copy to Wal-Mart immediately after treatment.

PHYSICIAN - Complete the physician's portion, fold and mail as indicated. (Please attach an itemized statement to ensure prompt payment).

WAL-MART LOCATION NUMBER 8103 ADDRESS 4180 Hwy 431 PHONE 334-8103-2117

NOTICE TO ASSOCIATE: I AM REQUESTING MEDICAL TREATMENT FOR THE INCIDENT DESCRIBED BELOW. I FULLY UNDERSTAND THAT IF IT IS DETERMINED THAT MY TREATMENT IS NOT RELATED TO AN ON-THE-JOB INJURY, OR NOT COVERED BY THE STATE WORKER'S COMPENSATION ACT, I MAY BE REQUESTED TO PAY FOR THE MEDICAL TREATMENT RENDERED. I FURTHER ACKNOWLEDGE THAT MEDICAL CARE ARRANGED FOR ME BY WAL-MART SHALL NOT ACT AS AN ACCEPTANCE OF MY CLAIM.

(Associate) Signature: Emory Steve Brown Social Security # 423 80 9678

To be completed by

WAL-MART

TO DOCTOR:	Company Dr. <u>✓</u> Associate Choice <u>Associate</u> <u>Steve Brown</u>
Date of injury	<u>9-29-04</u> Time <u>145</u> a.m. <u>✓</u> p.m. Date Reported <u>9-29-04</u> Time <u>4:55</u> a.m. <u>✓</u> p.m.
Associate's Job Description	<u>Overnight Stocker</u>
How did accident happen?	<u>Picking up bag of potatoes, unstack, slipped out of hand</u>
Description of injury/Part of body injured	<u>Right Shoulder</u>
Describe any signs of injury	<u>Pain in Right Shoulder</u>
Has associate injured same part of body before?	<u>NO</u>
Completed By: <u>Chris Cheatwood</u> (Member of Management)	Date <u>9-29-04</u> Time <u>4:55 am</u>

Medical Authorization

I hereby authorize the Physician and/or Hospital providing treatment to release medical records to representatives of Wal-Mart regarding my occupational injury.

Employee Signature: Emory Steve Brown Date: 10/4/04

PHYSICIAN'S REPORT

TO ATTENDING PHYSICIAN: This form is to be completed on Workers' Compensation Claims. We need your help in evaluating this



ATTACHMENT. Thank you for your help.

PLAINTIFF'S DEPOSITION
EXHIBITTo be completed by
PHYSICIAN

THE THIRD PARTY ADMINISTRATOR MUST BE CONTACTED FOR ALL AUTHORIZATIONS OF TREATMENT!!

Call the above Wal-Mart for the proper phone number and Administrators address for mailing.

MUST BE COMPLETED BY PHYSICIAN:

Diagnosis Emory Steve Brown X-rays taken ✓Treatment Plan maybe Physical therapy Drugs prescribed ✓May return to work regular duties Date 10/16/04

May return to work with following restrictions:

Maximum lifting limit: 100 lbs.

- Alternate sitting/standing
- Sitting work only
- Standing work only
- No overhead reaching
- No above the shoulder work

- No squatting
- No bending
- No stooping
- No twisting
- No ladder work

No: pushing No use: right hand No use: right arm No weight bearing: right leg pulling left hand left arm left leg Off work for 3 days. Return appointment on 10/16/04 Time 1:00 pmReferred to Phone If off work document medical necessity

(Please address off work status at least every 5-7 days)

Doctor's Signature: Emory Steve BrownAddress: 901 Box 1377, Decatur, AL 35211Date and Time: 10-4-04IN#: Phone: (334) 8103-8951MODIFIED
WORK
AVAILABLE

1st copy

To be returned to the store by associate

2nd Copy

Physician to fold and mail.

1219

ALEXANDER CITY ORTHOPAEDICS

OCTOBER 27, 2004

BROWN, EMERY
#21738

Emery is a delightful new patient, 49 years old, seen for evaluation of a painful right shoulder. DOI: 09/28/04. Mechanism – unloading a produce truck. He experienced a pop in his right shoulder when he was lifting 50-lb bags of potatoes. He was initially placed on medications but continued to have severe pain with inability to sleep, inability to lift his right arm.

X-RAYS:

MRI scan was subsequently performed on 10/19/04 and is remarkable for a tear of the supraspinatus with retraction of the free edge at the level of the acromion. There is also noted some subchondral cyst formation in the greater tuberosity, tear of the anterior-superior aspect of the labrum, and acromioclavicular joint changes. Radiographs of his shoulder from 09/29/04 showed healed rib fractures and changes consistent with osteoarthritis of the acromioclavicular joint.

ON EXAMINATION:

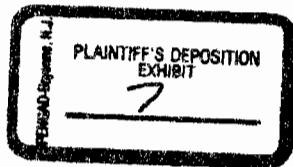
He has weakness with initiation of abduction consistent with a rotator cuff tear. He has a painful arc with assistance from 70-110 degrees. He has stiffness secondary to disuse of his shoulder over the last 4 weeks. His cervical spine is unremarkable.

He works at the Wal-Mart in Roanoke and was referred by Dr. Shirah.

WT: 152. HT: 5'8".

MEDICATIONS:

Include Robaxin, ibuprofen, and Darvocet.

**ROS:**

Backache, leg swelling, history of poor circulation.

SOCIAL HISTORY:

Positive for tobacco.

Supraspinatus - a muscle of the back of the shoulder... one of the muscles making up the rotator cuff
Subchondral - situated beneath cartilage
Tuberosity - a large, rounded prominence of bone serving for attachment of muscles & ligaments
Acromion - ring of cartilage attached to the rim of a joint
Acromion - anterior end of the scapula, forms the outer angle of the shoulder & anterior edge of the clavicle

ALLERGIES:

NKDA.

FAMILY HISTORY:

Remarkable for cancer, diabetes

SURGICAL HISTORY:

Appendicitis in 1974.

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Mail Receive Date: 2004-10-29 

OCT-21-2004 10:31 FROM:OPEN MRI OXFORD 256 832 0461

TO:One Call Medical Inc P.44



Patient Name: BROWN, EMORY

Day Phone:

Ref. Physician: Shirah, Mitchell

Evening Phone:

Account #: 1008914

DOS: 10/19/2004

Date of Birth: 8/24/1955

Page: 1 of 1

PROCEDURE: MRI OF THE RIGHT SHOULDER.

FINDINGS: No fractures or contusions are present. There is subchondral cyst in the greater tuberosity. There is a tear of the distal anterior third of the supraspinatus tendon with retraction of the free edge to the level of the acromion. There are degenerative changes of the AC joint with impingement upon the distal supraspinatus muscle.

There is some fluid in the joint and also undersurface spurring and joint narrowing. The infraspinatus tendon is normal.

A sublabial foramen is present. There is tear through the anterosuperior aspect of the labrum. The biceps and subscapularis tendons are normal. Acromion is type II.

OPINION:

1. Tear of the anterior portion of the supraspinatus tendon.
2. Subchondral cyst in the greater tuberosity.
3. Tear of the anterosuperior aspect of the labrum.
4. Advanced degenerative changes of the AC joint with impingement.
5. Subacromial bursitis.

A handwritten signature in cursive ink that reads "Thomas G. Harrell, MD".

Thomas G. Harrell, MD
334-863-2361

Joseph Adcock
Icmigh
Open MRI of Oxford



DOSUNDEF



Thank you for referring your patient to Open MRI of Oxford

221
12

ISO ClaimSearch Match Report

Date 10-01-2004

A claim report identified by ClaimSearch identification number 2X001701861 was received by ISO ClaimSearch on 10/01/2004. Reasonable procedures have been adopted to maximize the accuracy of this report. Independent investigations should be performed to evaluate the relevant data provided.

Claimant/Insured: BROWN, EMORY,
Address: PO BOX 145
City: ROANOKE **St:** AL **Zip:** 362740000
SSN: 423809678 (SSN ISSUED AL/1971-1972)
Claim Number: C4270431
Date of Loss: 09/29/2004 **Claim Type:** CASU **Loss Type:** COMP
Misc Info: HEPPES

NO MATCHES FOUND

If you have any questions concerning your report, please contact Customer Support at (800)888-4476
 BRIAN BROWN
 FINANCIAL MGR
 WAL-MART STORES
 C/O CLAIMS MANAGEMENT
 PO BOX 5020
 BENTONVILLE, AR 727121288
 W28400002



Initiating Claim:
Activity & Date: Property/Casualty 09/29/2004 **File Number:** 2X001701861
Type of Loss: Workers Compensation **Compensation:**
ISO Received: 10/01/2004
Company: WAL-MART STORES **Phone:** 4792734248
Address: C/O CLAIMS MANAGEMENT
 : PO BOX 5020
City: BENTONVILLE **State:** AR **Zip:** 727121288
Claim Number: C4270431

Involved Party: Claimant
Name: BROWN, EMORY,
Address: PO BOX 145
City: ROANOKE **State:** AL **Zip:** 36274
DOB: 08/24/1955
SSN: 423809678 (SSN ISSUED AL/1971-1972)
Occupation: STOCKER:GENERAL
Injury/Damage: STRAIN TO SHOULDER (S) FROM LIFTING BY MERCHANDISE

ISO ClaimSearch Match Report

Date 10-05-2004

A Claim report identified by ClaimSearch identification number 2X001701861 was received by ISO ClaimSearch on 10/01/2004. Reasonable procedures have been adopted to maximize the accuracy of this report. Independent investigations should be performed to evaluate the relevant data provided.

Claimant/Insured:	BROWN, EMORY,		
Address:	PO BOX 145		
City:	ROANOKE		
SSN:	423809678	(SSN ISSUED	St: AL Zip: 362740000
Claim Number:	C4270431 AL/1971-1972)		
Date of Loss:	09/29/2004	Claim Type:	CASU
Misc Info:	HEPPES COMP		

NO MATCHES FOUND

If you have any questions concerning your report, please contact Customer Support at (800)888-4476
 BRIAN BROWN
 FINANCIAL MGR
 WAL-MART STORES
 C/O CLAIMS MANAGEMENT
 PO BOX 5020
 BENTONVILLE, AR 727121288
 W28400002

Initiating Claim:

Activity & Date:	Property/Casualty 09/29/2004	File Number:	2X001701861
Type of Loss:	Workers Compensation	Compensation	
ISO Received:	10/01/2004		
Company:	WAL-MART STORES	Phone:	4792734248
Address:	C/O CLAIMS MANAGEMENT		
	: PO BOX 5020		
City:	BENTONVILLE	State:	AR
Claim Number:	C4270431	Zip:	727121288

Involved Party: Claimant

Name:	BROWN, EMORY,
Address:	PO BOX 145
City:	ROANOKE
DOB:	08/24/1955
SSN:	423809678
Occupation:	STOCKER:GENERAL
Injury/Damage:	STRAIN TO SHOULDER (S) FROM LIFTING BY MERCHANDISE
State:	AL
Zip:	36274
(SSN ISSUED	AL/1971-1972)

Wal-Mart

(Wed, 27 Oct 2004 15:02:12 -0500) (0c01e52058744949cb3ea18ae59ec6e) Fax: 12562342114 Page 3 of 6



CLAIMS MANAGEMENT, INC.

P.O. Box 1288
 Bentonville, AR 72712-1288
 479-621-2900

PLAINTIFF'S DEPOSITION
 EXHIBIT

10

Surgery Request

To:	Attn: Amy	From:	Victoria Heppes Greenspan
Fax:	256-234-3114	Pages:	3
Phone:		Date:	10/27/04
Re:	Please have doctor fill out the following form. Thank You	Patient:	

Urgent For Review Please Comment Please Reply Please Recycle

Workers' Compensation Surgery Request Information sheet: Wal-Mart, Sam's Club, and Wal-Mart Warehouse W/C Patients.

Please take a few minutes to complete the attached form.

Thank you for your time and care of this Valued Wal-Mart Associate. I can be reached at (479)621-2900 Ext.

Please fax the form to my attention upon completion.

Fax: (479) 273 - 8020

Please Note: All billing from Wal-Mart or Sam's Club worker's compensation claims should be filed the same, please update your system with the billing information. If treatment is approved all billing should be directed to the following:

BCBS
 ATTN: Terri Flanagan
 P.O. Box 361787
 Birmingham, AL 35216

Please re-submit any outstanding bills to Blue Cross/Blue Shield. In order for billing to be paid correctly, the bill must include the patient's SSN with WRI as a prefix. The group number is 32060. The patient will not have an insurance card because this is worker's compensation. It is not required for you to attach notes to the bills, however, all records should be faxed to my

224

60

D-Mart

(Wed, 27 Oct 2004 15:02:12 -0500) (2004-e52058744949cb3ea18ae39ec6e) Fax 12502343214 Page 5 of 6



CLAIMS MANAGEMENT, INC.

P.O. Box 1288
 Bentonville, AR 72712-1288
 479-621-2900 Ext: 20770

Emory Brown
 Claim #: C4270431

Dear Dr. Howorth,

We are in receipt of your request for surgical intervention for _____ in order to continue to coordinate benefits under workers' compensation and send this request for pre-certification, please complete the information below and fax back at your earliest convenience.

If you have any questions, please call me at (800)527-0566 Ext. 20776
 Thank you in advance for your time.

Have all conservative measures been exhausted? Please explain:

On Jan 2002, I need surgical report
 ASAP

Is this patient a good, fair or poor candidate for a positive outcome associated with this surgery? Please explain:

6000

Surgical procedure (include ICD 9 code)?

1. Shoulder scope, + open repair / 23420

Will the procedure be completed on an outpatient or inpatient basis?

out patient

Name, address and phone number of facility where surgery will be completed:

RUSSEN MED. CENTER Hwy 280 256-329-7100

What if any physical restrictions will be recommended in regards to employment and activities of daily living after surgery?

no restriction after 3-6 mo use 1/2

What is the expected time frame of release to return to work in a modified duty capacity after surgery?

1-2 wks no use @ 1/2, 6-12 wks RTW

Is a physical therapy referral or home exercise program expected post-operatively?

yes

22

61

Wal-Mart

(wed, 27 Oct 2004 15:02:12 -0500) (0c0a1e52058744949cb3ea18ae59ec6e) Fax: 12562343114 Page 6 of 6

If so, please list the anticipated time frame of treatment-

6-12 weeksProjected MMI (maximum medical improvement) date: 7-01-05

What permanent impairment rating do you anticipate following surgery?

est. 2-4% P.D., 5-10% ARM

Should this patient choose not to proceed with surgery, what permanent impairment rating would you assign?

est. 5-7% P.D., 15-20% ARM

Is surgical intervention requested in whole or part due to the reported work injury of

Yes

Please specify /provide explanation:

Injury shoulder, 6 mo. rotator cuff tear.

Please note:

*Alabama Workers' Compensation Law Statute 25-5-58 states:**If the degree or duration of disability resulting from an accident is increased or prolonged because of a preexisting injury or infirmity, the employer shall be liable only for the disability that would have resulted from the accident had the earlier injury or infirmity not existed.*

To your knowledge, Is there any preexisting injury or infirmity that may increase the degree or duration of disability associated with the current injury?

NOPhysician Signature John M.A.Date 10/30/04

Please fax this completed form to (479)273-8020

Approval for the requested surgery is subject to review of medical records and may be subject to the utilization review process.

CONFIDENTIALITY NOTICE: This fax and any files transmitted with it are confidential and intended solely for the individual or entity to whom they are addressed. If you have received this fax in error, please notify the Wal-Mart e-mail administrator at "psystemsec@wal-mart.com". If you are reading this message and are not the intended recipient, or the employee or agent responsible to deliver it to the intended recipient, you are hereby notified that any dissemination, distribution or copying of this communication is strictly prohibited.

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P.03

BROWN, EMERY
ACO #21738
10/27/04
PAGE 2

He has had no previous difficulties with his right shoulder. He reports no history of injury or pain.

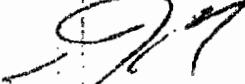
DIAGNOSES:

1. Acute tear of supraspinatus, rotator cuff.
2. ACJ OA.

PLAN:

1. Preoperative ROM & strengthening to improve his ROM and become familiar with postoperative exercise program.
2. Recommend immediate arthroscopy & rotator cuff repair. He is 4 weeks post injury, and it is much better to proceed with rotator cuff reconstruction within the first 6 weeks during the acute phase, as the results are more predictable. After 6 weeks, the results become more unpredictable. He has had severe pain, inability to sleep, and inability to use his arm since his injury. I do not feel that this will improve with PT or any other modalities at this time. Without rotator cuff reconstruction, he will have permanent weakness secondary to the loss of the supraspinatus function. The rotator cuff muscle will retract, become scarred, and be impossible to repair easily. I discussed this with him extensively. He will need 6 weeks to 12 weeks of PT, modified work activities, minimal or no use of the right hand. After 3 months, he should be able to return to full duties without restrictions.

Respectively submitted,


GRAHAM L. HOWORTH, JR., M.D.
FELLOW OF AMERICAN ACADEMY OF ORTHOPAEDIC SURGEONS

/jhw

cc: Dr. Shijrah
Roanoke Family Care

Wal-Mart



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Mail Receive Date: 2004-12-08

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C4270431

GRAHAM L. HOWORTH, M.D., P.G.

COOSA VALLEY ORTHOPAEDICS
121 SOUTH ANNISTON AVENUE
SYLACAUGA, AL 35158
(156) 249-5900
(256) 249-5910 FAX

ORTHOPAEDIC SURGERY
ALEXANDER CITY ORTHOPAEDICS
1120 AIRPORT DRIVE SUITE 101
ALEXANDER CITY, AL 35910
(205) 234-6989
(205) 234-3116 FAX

LAKE MARTIN ORTHOPAEDICS
201 MARIARDEN ROAD
DADEVILLE, AL 36025
(205) 323-3224
(205) 323-7888 FAX

TO: Victoria FAX# 479 273 8020

SENDER: Amy OFFICE:

DATE & TIME: 1-15-04

TOTAL PAGES INCLUDING COVERS/DET:

Confidentiality Note:

Re: Emely Brown
Surgery Approval



PC42704311269

Who puts on
when

IF YOU HAVE ANY QUESTIONS, PLEASE DO NOT HESITATE TO CALL.



THE BOSTONIAN



216

74

Mail Receive Date: 2004-12-08

99999999

P-02

ALEXANDER CITY ORTHOPAEDICS**OCTOBER 27, 2004****BROWN, EMERY**
#21738

Emery is a delightful new patient, 49 years old, seen for evaluation of a painful right shoulder. DOI: 09/28/04. Mechanism - unloading a produce truck. He experienced a pop in his right shoulder when he was lifting 50-lb bags of potatoes. He was initially placed on medications but continued to have severe pain with inability to sleep, inability to lift his right arm.

X-RAYS:

MRI scan was subsequently performed on 10/19/04 and is remarkable for a tear of the supraspinatus with retraction of the free edge at the level of the acromion. There is also noted some subchondral cyst formation in the greater tuberosity, tear of the anterior-superior aspect of the labrum, and acromioclavicular joint changes. Radiographs of his shoulder from 09/29/04 showed healed rib fractures and changes consistent with osteoarthritis of the acromioclavicular joint.

ON EXAMINATION:

He has weakness with initiation of abduction consistent with a rotator cuff tear. He has a painful arc with assistance from 70-110 degrees. He has stiffness secondary to disuse of his shoulder over the last 4 weeks. His cervical spine is unremarkable.

He works at the Wal-Mart in Roanoke and was referred by Dr. Shirah.

WT: 152. HT: 5'8".

MEDICATIONS:

Include Robaxin, ibuprofen, and Darvocet.

ROS:

Backache, leg swelling, history of poor circulation.

SOCIAL HISTORY:

Positive for tobacco.

ALLERGIES:

NKDA.

FAMILY HISTORY:

Remarkable for cancer, diabetes, CVDZ.

SURGICAL HISTORY:

Appendicitis in 1974.

229

Mail Receive Date: 2004-12-08

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P. 03

BROWN, EMERY

ACO #21738

10/27/04

PAGE 2

He has had no previous difficulties with his right shoulder. He reports no history of injury or pain.

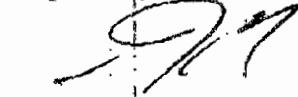
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Respectively submitted,



GRAHAM L. HOWORTH, JR., M.D.
FELLOW OF AMERICAN ACADEMY OF ORTHOPAEDIC SURGEONS

/jhw

cc: Dr. Shirah
Roanoke Family Care

Wal-Mart

230

29